

MEETING MINUTES, BOARD OF ZONING APPEALS, JUNE 9, 2008

Present: Phil Tinkle, Shan Rutherford, Alford Kessinger, Ken Knartzer, Ed Ferguson, Planning Director; Jay Isenberg, Asst. City Attorney, and Janice Nix, Recording Secretary

The meeting was called to order at 6:00 p.m. by Phil Tinkle, Chairman.

PREVIOUS MINUTES

April 28th – Rutherford moved to approve the minutes as mailed, seconded by Knartzer. Vote for **approval** was unanimous, 4-0. **Motion carried.**

FINDINGS OF FACT

Docket V2008-008 – Dimensional Variance – Burger King – Knartzer moved that in consideration of the statutory criteria that we adopt the written Findings of Fact as presented, incorporating the evidence submitted into the record, as our final decision and final action for Variance Petition Number V2008-008, seconded by Kessinger. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Docket V2008-009 – Special Use Exception – Greenwood Schools Transportation Center – Rutherford moved that in consideration of the statutory criteria that we adopt the written Findings of Fact as presented, incorporating the evidence submitted into the record, as our final decision and final action for Variance Petition Number V2008-009, seconded by Knartzer. Vote for **approval** was unanimous, 4-0. **Motion carried.**

NEW BUSINESS

Docket V2008-010 – Dimensional Variance – Unity Physicians – located at 1001 N. Madison Avenue – request to allow additional wall sign, 8' tall ground sign and to allow all signs to be illuminated in B-1 Business zone – Lynn Schenck, Unity Physicians, representing.

Sherman Bynum, Architect; and Lynn Schenck, Unity Physicians; came forward and were sworn.

Mr. Bynum explained that Unity Physicians would like to have an additional wall sign, an 8' tall ground sign and to allow all signs to be illuminated in B-1 Business zone. He addressed a remonstrance letter that was received by the city from adjacent property owner to the north, Mr. Hayes. Bynum stated he felt that since a 6' privacy fence is being installed along the property line, as well as the location of the signs in regards to Mr. Hayes' property, there should be no negative impact to Mr. Hayes. There will be no signage located on the north side of the building, adjacent to Mr. Hayes' property.

The statutory criteria was addressed as follows:

Request for additional wall sign:

1. **Criteria:** The approval will not be injurious to the public health, safety, morals, and general welfare of the community; **Answer:** The request seeks to establish two wall signs on a property zoned and under development for business uses. The signs are typical for these uses and would be located more than 100 feet from the nearest residential structure and would be oriented toward Madison Avenue. The signs would be placed on the building in accordance with appropriate electrical codes.
2. **Criteria:** The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. **Answer:** The site is located on the fringe of the most intensively developed commercial area within Greenwood and the adjoining residential uses, while currently used residentially, are planned for, and zoned for, commercial uses. The remainder of the properties adjacent to the site are either in commercial development or completely shielded from the effects of these signs.

3. **Criteria:** The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. **Answer:** The request seeks to establish two wall signs with a combined square-footage of approximately 50 square feet. The ordinance would permit one sign at a maximum size of 50 square feet. By splitting the maximum square footage along 2 signs, the intent of the Ordinance for conservative signage design within the business zoning district is achieved by an alternative means.
4. **Criteria:** The proposed structure is not regulated under Indiana Code 8-21-10-3 because **Answer:** While the property is located within the Airspace Zoning District, it is located 7,306 feet from the runway of the Greenwood Municipal Airport. This distance establishes a 73-foot height threshold for regulation under that provision of Indiana Code, and this proposal would provide for the location of two wall signs upon an emerging 21-foot tall building and the construction of an 8-foot tall ground sign. The 73-foot height threshold has not been crossed and the proposal, therefore, is not subject to regulation under Indiana Code 8-21-10-3.

Request for 8' high ground sign:

1. **Criteria:** The approval will not be injurious to the public health, safety, morals, and general welfare of the community; **Answer:** The request seeks to establish a freestanding sign on a property zoned and under development for business uses. The sign is typical for these uses and would be located more than 100 feet from the nearest residential structure. The sign would be placed on the building in accordance with appropriate electrical codes.
2. **Criteria:** The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. **Answer:** The site is located on the fringe of the most intensively developed commercial area within Greenwood and the adjoining residential uses, while currently used residentially, are planned for, and zoned for, commercial uses. The remainder of the properties adjacent to the site are either in commercial development or completely shielded from the effects of these signs.
3. **Criteria:** The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. **Answer:** The proposal would provide for an 8-foot tall 32-square foot sign, while the Ordinance would permit a 4-foot tall, 32-square foot sign. The Sign Code is currently under revision and a common "complaint" of the current Sign Code is that the height limit on ground signs is too restrictive and encourages taller pole signs. In response, staff has proposed a revision which would increase the height of ground signs to 8 feet. This request, therefore, is likely a "temporary variance" until such time as the Sign Code is amended to provide for an increased height of ground signs.
4. **Criteria:** The proposed structure is not regulated under Indiana Code 8-21-10-3 because **Answer:** While the property is located within the Airspace Zoning District, it is located 7,306 feet from the runway of the Greenwood Municipal Airport. This distance establishes a 73-foot height threshold for regulation under that provision of Indiana Code, and this proposal would provide for the location of two wall signs upon an emerging 21-foot tall building and the construction of an 8-foot tall ground sign. The 73-foot height threshold has not been crossed and the proposal, therefore, is not subject to regulation under Indiana Code 8-21-10-3.

Request to allow signs to be illuminated:

1. **Criteria:** The approval will not be injurious to the public health, safety, morals, and general welfare of the community; **Answer:** The request seeks to establish illuminated signs on a property zoned and under development for business uses. The signs are typical for these uses and would be located more than 100 feet from the nearest residential structures and

completely shielded from residential structures intended for continued residential occupancy. The signs would be placed on the building in accordance with appropriate electrical codes.

2. **Criteria:** The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. **Answer:** The site is located on the fringe of the most intensively developed commercial area within Greenwood and the adjoining residential uses, while currently used residentially, are planned for, and zoned for, commercial uses. The remainder of the properties adjacent to the site are either in commercial development or completely shielded from the effects of these signs.
3. **Criteria:** The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. **Answer:** The purpose behind the prohibition on sign illumination within the business zoning district acknowledges the typical use of this district in areas that are dominated by sensitive land uses and the need to minimize intrusion in the character of those sensitive land uses. This site, however, is located at the fringes of the Regional Shopping Center and, in this case, the business zoning district services as a transition between the intense development west of the site and the sensitive land uses east of the site. Since the signs are located near, or oriented toward, the western portion of the site (nearer the Regional Shopping Center), the intent of the prohibition is realized as the areas east of the site, improved with and planned for residential development, are shielded from the effects of the signs by the emerging development.
4. **Criteria:** The proposed structure is not regulated under Indiana Code 8-21-10-3 because **Answer:** While the property is located within the Airspace Zoning District, it is located 7,306 feet from the runway of the Greenwood Municipal Airport. This distance establishes a 73-foot height threshold for regulation under that provision of Indiana Code, and this proposal would provide for the location of two wall signs upon an emerging 21-foot tall building and the construction of an 8-foot tall ground sign. The 73-foot height threshold has not been crossed and the proposal, therefore, is not subject to regulation under Indiana Code 8-21-10-3.

Knartzter asked for clarification of the actual locations of the signs. Bynum showed on the site plan where the monument sign will be located, as well as how the wall signs are located on the building. All signs will be over 100' from Mr. Hayes property to the north. The Board inquired about the illumination of the signs – will it be bright lights? Bynum stated that they will not be brightly lit signs. Unity Physicians would like to have the two wall signs (above the door and on the side of the building) illuminated during working hours. They would like for the monument sign to be lit 24 hours a day. Lynn Schenck, Vice President of Operations for Unity Physicians, spoke regarding the illumination of the signs. She stated the reasoning behind having the wall signs illuminated during working hours is for identification. Many times people visiting are under duress and clear identification of the building and entrance are needed. Also it is sometimes necessary for an ambulance to be called and the lit signs will help them to identify the location. Lighting the monument sign continuously helps to identify the location of the building for current and future visitors.

Mr. Hays, adjacent property owner, came forward and was sworn. He stated he is against the signs being lit because he feels the lighting will be visible from his property. He felt the proposed 6' opaque fence would not help shield the light. Bynum gave rebuttal by stating that the proposed lighting is not a bright light and also that the signs will be located over 100' from Mr. Hays property.

Rutherford moved that we admit into the record all evidence presented in regard to this matter, including the notices, receipts, maps, photographs, written documents, Petitioner's application and attachments, Petitioner's Detailed Statement of Reasons, the Staff Report prepared by the Planning Department, certified copies of the Zoning Ordinance and Comprehensive Plan, testimony of the Petitioner, City planning staff and any Remonstrators, and all other exhibits presented, be they oral or written, for consideration by this Board in regard to this petition, seconded by Knartzter. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Request for additional wall sign:

Knartzer moved that based on the evidence presented that the Board approve the granting of a dimensional variance to Unity Physicians located at 1001 N. Madison Avenue, to allow an additional wall sign, the following conditions:

- 1) The combined square footage of both wall signs shall not exceed fifty square feet.

Seconded by Rutherford. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Request for ground sign 8' in height:

Rutherford moved that based on the evidence presented that the Board approve the granting of a dimensional variance to Unity Physicians located at 1001 N. Madison Avenue, to allow a ground sign measuring 8' in height, seconded by Knartzer. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Request to illuminate all signs:

Rutherford moved that based on the evidence presented that the Board approve the granting of a dimensional variance to Unity Physicians located at 1001 N. Madison Avenue, to allow illumination of all signs, the following conditions:

- 1) The combined square footage of both wall signs shall not exceed fifty square feet'
- 2) Illumination of wall signs shall be turned off at 11:00 p.m.

Seconded by Knartzer. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Knartzer moved that having considered the statutory criteria that we direct the City Attorney's Office to draft written Findings of Fact, regarding our decision approving Variance Petition Number V2008-010, said Findings to specifically incorporate the staff report and the evidence submitted into the record, for consideration and adoption by the Board of Zoning Appeals as our final decision and final action regarding this Petition at our next meeting, seconded by Kessinger. Vote for **approval** was unanimous, 4-0. **Motion carried.**

ANNOUNCEMENTS/REPORTS

Rutherford moved to adjourn, seconded by Knartzer. Vote for **approval** was unanimous, 4-0. **Motion carried.** Meeting was adjourned at 6:40 p.m.

JANICE NIX
Recording Secretary

PHIL TINKLE
Chairman